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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/642,108	08/21/2000	Alan B. Caldwell	9-13528-110US KD:kp	8670
20988	7590	05/18/2004		
OGILVY RENAULT 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			EXAMINER VANDERPUYE, KENNETH N	
			ART UNIT 2661	PAPER NUMBER 7

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/642,108

Applicant(s)

CALDWELL ET AL.

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-41, 44-82, 85-121 is/are pending in the application. *Kur*
- 4a) Of the above claim(s) 2, 42, 43, 83 and 84 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8, 10, 23, 26, 41, 44-46, 49, 51, 67, 82, 85-87, 90 and 92 is/are rejected.
- 7) ☒ Claim(s) 6-7, 9, 11-22, 24-25, 27-40, 47-48, 50, 52-66, 68-81, 88-89, 91, 93-121 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 3-17-04 have been fully considered but they are not persuasive. See rejection of claims 1 and 82.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 10, 23, 26, 41-46, 49, 51, 67, 82-87, 90, 92 are rejected under 35 U.S.C. 102(b) as being anticipated by Oda et al.(6,522,667).

With regards to claim 1, Oda teaches a method of extending a data service through a broadband network, the method comprising steps of: accumulating a predetermined number of successive bytes of a data stream respecting the data service at an ingress gateway independently of a communication protocol of the data stream(Fig. 1@30, In Fig.3 the gateway is designed to accumulate a predetermined number of bytes, i.e. 56 bytes of data, extract 5 bytes

and encapsulate 46 bytes. There is nothing to suggest that the gateway knows the protocol is ATM. Any protocol sent to the gateway having the same number of bytes would be processed accordingly. As long as the number of bytes equal 56 encapsulation proceeds, hence it is protocol independent), encapsulating the accumulated bytes as a payload packet within a container(Fig. 3); encapsulating the container within a PDU of the broadband packet network (Fig. 3, the arriving cells are placed in containers within the PDU and then forms part of the payload of a UDP/TCP packet and then used to form the payload portion of an IP packet) and forwarding the PDU through the broadband network to an egress gateway (Fig 1@31)

Claim 3 is rejected because the broadband packet is UDP/IP or TCP/IP and the data stream is ATM.(Fig.3)

Claim 4 is rejected because the ATM protocol uses 56 bytes.

Claim 5 is rejected because the predetermined number of bytes is a function of the length of the ATM cell.

Claim 8 is rejected because the data stream comprises sequential PDUs of the ATM cell protocol.

Claim 10 is rejected because the protocol of the data stream need not be known since the IP network does not care. The IP network only knows that the IP packet has a payload section.

Claim 23, 26 are rejected as being inherent because the egress gateway (Fig. 3@31) has to be able to perform the reverse of the encapsulation process performed by the ingress gateway by stripping the headers a(Fig. 1@30).

Claim 82 is rejected because Oda teaches a system comprising
a) an ingress gateway(Fig. 1@30):

i) means for accumulating a predetermined number of successive bytes of a data stream respecting the data service, independently of communications protocol of the datastream; (Fig. 1@30, In Fig.3 the gateway is designed to accumulate a predetermined number of bytes, i.e. 56 bytes of data, extract 5 bytes and encapsulate 46 bytes. There is nothing to suggest that the gateway knows the protocol is ATM. Any protocol sent to the gateway having the same number of bytes would be processed accordingly. As long as the number of bytes equal 56 encapsulation proceeds, hence it is protocol independent)

ii) means for encapsulating the accumulated bytes as a payload packet within a container;(Fig. 3, see rejection of claim 1) and

iii) means for encapsulating the container within a protocol data unit of a broadband packet network.(Fig. 3, see rejection of claim 1)

b) means for conveying the PDU through the broadband packet network to an egress gateway(Fig. 3@31);

c) the egress gateway comprising:

i) means for extracting a respective container from each received PDU;(inherently taught because the reverse of encapsulation must be performed) and

ii) means for reconstructing the data stream from using the respective containers.(inherently taught because the reconstruction is part of reverse encapsulation).

Claim 85 is rejected for the same reasons as claim 3.

Claims 86-87 are rejected for the same reasons as claims 4-5.

Claim 90 is rejected for the same reasons as claim 8.

Claim 92 is rejected for the same reasons as 10.

Claim 41 is rejected for the same reasons as claim 82

Claims 44-46 are rejected for the same reasons as claims 3-5.

Claims 49, 51 are rejected for the same reasons as claims 8, 11.

Allowable Subject Matter

Claims 6-7, 9, 11-22, 24-25, 27-40, 47-48, 50, 52-66, 68-81, 88-89, 91, 93-121, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



KENNETH VANDERPUYE
PRIMARY EXAMINER

KNV
5/17/2004